

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on September 27 23, 2007 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Gus Escher, Public Member; Moshe Cohen, Public Member; Ulysses Lee, Public Member; Edward Tetelman, Designee of the Commissioner of Health and Senior Services; Maryann Kralik, Designee of the Commissioner of Banking and Insurance; and Eileen Stokley, Designee of the Commissioner of Human Services.

The following **Authority staff members** were in attendance:

Mark Hopkins, Dennis Hancock, Jim VanWart, Michael Ittleson, Suzanne Walton, Susan Tonry, Wanda Lewis, Lou George, Bill McLaughlin, Bob Day, Carole Conover, Jessica Waite, and Stephanie Bilovsky.

The following **representatives from State offices and/or the public** were in attendance:

Garrick Stoldt, Saint Peter's University Hospital; John Doll, Meridian Health Systems; Bob Segin, Gerry Lowe, Bob Osler, Virtua Health, Inc.; Jeffrey Goodwin, Carl Alberto, Jeff Kelly, Mark Sblendorio, Warren Hospital; Frank Taylor, Ponder & Co.; Cheryl Cohen, Pantheon Capital; Scott Kobler, McCarter & English; Ruben Ahmed, Citibank; Jan Blazewski, Cain Brothers; Maryann Kicenuik, Windels Marx Lane & Mittendorf; Joan Marron, Hillary Denby, Victor Chu, UBS; Kay Fern, Evergreen Financial Services;; Danielle Cheung, Alex Makowski, FSA; Kent Pieri, Sovereign; Kari Fazio, Chris McCann, Wachovia; Lopa Kolluri, Treasurer's Office; Sharon Price-Cates, Governor's Authorities Unit; and, Cliff Rones, Deputy Attorney General.

CALL TO ORDER

Mr. Escher called the meeting to order at 10:00 a.m. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 24, 2007 Authority meeting. Complying with the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

APPROVAL OF MINUTES

August 23, 2007 Authority Meeting

The minutes for the Authority's August 23, 2007 Authority meeting were distributed for review and approval. Ms. Stokley offered a motion to approve the minutes; Mr. Lee seconded. Mr. Escher voted yes; Dr. Cohen abstained; Mr. Lee voted yes; Ms. Kralik abstained; and Ms Stokley voted yes. The motion carried and the minutes were approved.

INFORMATIONAL PRESENTATIONS

A. Saint Peter's University Hospital

Suzanne Walton began by introducing Garrick Stoldt, Senior Vice President of Finance at Saint Peter's University Hospital. Ms. Walton noted that she will be providing the Members with an update to an Informational Presentation she made in February regarding a financing being undertaken on behalf of Saint Peter's ("Saint Peter's") University Hospital. The financing was delayed because, subsequent to the February presentation, Saint Peter's learned that Papal Approval was required in order to move forward with the bond issue due to the dollar size of the financing and the expected requirement of a mortgage. Further, before Papal Agreement could be granted, the request had to be reviewed by the Diocese of Metuchen. Ms. Walton reported that Papal Approval had been granted.

In addition, during the past few months, Saint Peter's dealt with several challenges including a corporate reorganization, the replacement of the Chief Financial Officer, and the recent Moody's rating downgrade from BAA1 to BAA2. A copy of Moody's report had been included in the Members mailing material.

The Members may recall that Saint Peter's would like to issue approximately \$140 million of bonds to 1) finance renovations to existing public and patient care areas, 2) reimburse the hospital for capital expenditures, 3) refund Authority debt, 4) fund a debt service reserve fund, and 5) pay costs of issuance.

The new money component totaling approximately \$43 million would be used to modernize the aging facility in order to allow Saint Peter's to maintain existing patient volume and grow new services. Targeted areas include: cardiology, emergency care, geriatrics, oncology, pediatrics, perinatal and women's health and surgery, as well as public areas including the main entrance, the lobby, and all elevators. Saint Peter's also seeks reimbursement for approximately \$6 million for prior capital expenditures.

Saint Peter's also plans to advance refund Series 2000A Bonds, defease the Taxable Series 2000C with its own cash and currently refund and restructure Series F bonds issued in 1993.

Ms. Walton reported that despite the issuance of debt for the new money projects, the proposed capital structure and current market conditions will provide Saint Peter's with access to cost effective capital, generate cash flow savings and enhance the hospital's liquidity. It is anticipated that Saint Peter's will issue traditional fixed rate debt which will further reduce the risk profile of its capital structure.

Ms. Walton noted that historical financial and utilization statistics were provided in the Members' mailing material. The current schedule includes a request for Contingent

Sale approval at the October Meeting. At that time, the Members will be supplied with Saint Peter's projections for the period 2007 through 2011.

Mr. Tetelman asked about the revenue losses for 2007, to which Mr. Stoldt replied that the hospital had been experiencing a downslide of volume, but by 2007 it had stopped the decline, partly by changing the way the services are provided within the facility. Saint Peter's also started a major ad campaign (it previously did not advertise when its competitors did) and introduced some new services like bariatric services. Mr. Tetelman asked about the problem of "splitting doctors," which is when physicians work at multiple facilities splitting their time, to which Mr. Stoldt said much of the staff does split its time, however the hospital is working to recapture those docs, partly through this financing project, by offering more private rooms. He also noted that Saint Peter's had the largest perinatal unit on the East Coast but recently a regional perinatal unit opened one mile away. This resulted in a drop off in volume, however, Saint Peter's has already begun to recapture some of that market.

Dr. Cohen asked about the expected interest rate for the transaction, to which Mr. Stoldt stated that they expect an interest rate somewhere in the 5% range. Dr. Cohen asked about derivatives, to which Mr. Stoldt stated that Saint Peter's recently unwound a swap, therefore, the hospital has no swaps at this time. It profited approximately \$2 million from its prior derivatives.

B. Meridian Hospitals Corporation

Lou George began by introducing John Doll, Director of Finance at Meridian Health System ("the System"). Mr. George reported that staff is currently structuring a \$275 million financing on behalf of Meridian that will result in the construction of a new pavilion and a diagnostic and treatment building at the Jersey Shore Division.

During the week of September 10th, the System's management made presentations to the rating services and five insurers. Four of the five insurers have expressed an interest in insuring all or a portion of the transaction. Management is awaiting the various insurers' covenant restrictions to determine the most cost effective and operationally efficient proposal.

Anticipating the use of bond insurance, the working group favors the issuance of insured multi-modal 30-year auction rate bonds, the proceeds of which will fund the construction project to include the reimbursement of monies already expended.

The System prepared projections to support its ability to pay debt service associated with the project. At this point Susan Tonry presented the transaction's financial projections. The projection period covers 2008-2011 and look at the obligated group because it is the source servicing the debt. The projections show that debt service coverage ratios range from 2.4 to 3.3 times coverage, cash on hand ranges from 132 days to 154 days, days in accounts receivables remain steady at 42 days throughout the projection period, and days in accounts payable remains steady at approximately 47 days (48-46.7). The projections show operating margins ranging from .9% to 3.0% and profit margins ranging from 2.8% to 4.8%.

Ms. Tonry reported that, in short, the projections predict solid financial performance. There is a slight drop in 2009 as the project comes on line but financial indicators trend upward in 2010-2011.

Ms. Tonry stated that the key assumptions of the projections include the following-- In terms of **volume**: admissions are projected to grow at a constant rate of 2.5% each year-- no large increase is projected when the project comes on line; the length of stay is assumed to remain constant at each facility (JS 4.73; Ocean 4.59; Riverview 4.69); and outpatient growth rate is assumed to be 5.2% at Jersey Shore, 1.5% at Ocean and 2% at Riverview.

In terms of **expenses**: the general expenses, excluding interest and depreciation, are projected to increased between 5% and 7% during the projection period (the 7% increase occurs in 2009 and is directly related to new staff; salary increases are estimated at roughly 3.5% to 4% per year; fringe benefits remain at 22.4% of salaries throughout the projection period; supplies and other expenses increase over 5% per year; and the economic growth factor is projected at 5.25% for 2008, dropping to 4.25% for 2009-2011. Meridian is maintaining a focus on overall cost control to absorb the project.

In terms of **revenues**: inpatient revenues are projected with increases based on a 4% overall rate per year, which is conservative considering negotiations are held every two to three years and increases are the norm; outpatient revenues are expected to increase by 3% in 2008 and 4% in 2009-2011, managed care estimates are projected to range from 6-8% (as 40% of business) and Medicare estimates range between 2-3% (4% is considered conservative overall for rate increases).

Ms. Tonry noted that, overall these projections show conservative assumptions related to the anticipated project and market.

Ms. Tonry then turned the floor over to John Doll to go over some of the details of the project being financed. Mr. Doll added that the projection's growth factors were based on historical rates. He then thanked the Authority staff for their support in the financing process and expressed his appreciation to the Authority Board for their interest in the project.

Mr. Doll explained that the project is necessary to address capacity constraints at Meridian's Jersey Shore University Medical Center Campus ("JSUMC"), which he described as a major teaching tertiary facility with clinical quality and regional programs that have fueled average inpatient growth in excess of 4% over the five year period ended December 31, 2006.

In 2006, JSUMC's growth was limited by inpatient capacity issues. Many of its inpatient floors ran at excess capacity during peak times causing delays and other issues. JSUMC's management temporarily addressed the issue by relocating services within the campus to make more beds available. The proposed project would meet the growing needs of the community and ensure that JSUMC has the capacity to continue providing the highest level of services and programs. To date, Meridian has expended over \$50 million on the project and has a Guaranteed Maximum Price contract for the construction costs.

Mr. Doll reviewed the site plan for JSUMC's campus indicating that the campus has parking and space issues making construction planning critical. Fortunately, JSUMC's management team has developed an excellent relationship with township officials, as evidenced by the School Board allowing the Medical Center to use a portion of its athletic fields for employee parking during the initial stages of the project. Mr. Doll pointed out the existing buildings and the planned construction, noting that the new 950-space parking garage is two-thirds complete and open. The parking facility was

completed in stages to allow continued service to the Medical Center's Trauma Helipad during construction and was financed through Authority debt issued by Meridian's realty company.

The largest new building is the 213,000 square Northwest Pavilion which will house a state of the art emergency department capable of accommodating 100,000 annual visits with dedicated space for pediatrics, trauma and imaging. The Pavilion will also include 108 new private beds in 12-bed neighborhoods and a 36 bed shell floor. The project also includes a new 109,000 square foot diagnostic and treatment building ("D&T") which will add 6 surgical suites, a new kitchen, loading dock and sterile processing department. The parking garage, Northwest Pavilion and D&T building will all be connected by a glass atrium to facilitate access to JSUMC. In addition, the project includes a central corridor that will connect the old and new part of the campus allowing patients to easily navigate the facility.

The final stage of the project includes renovations to clinical and outpatient areas including pediatric, neonatal and diagnostic imaging services. When the project is complete the campus will be situated to provide outpatient services on east side of the campus, inpatient units on the west side and shared services in the center. Management believes the project will truly transform the delivery of care at JSUMC. As such, the project has been named the "Transformation Project" and been given the "butterfly" theme.

Mr. Doll explained that JSUMC will achieve LEED certification for the new building and is a member of the Pebble project. LEED certification is awarded by the US Green Building Council for buildings constructed with "Leadership in Energy and Environmental Design." The Pebble Project is a joint research effort between The Center for Health Design and selected healthcare providers. The project's goal is to provide research and documentation of healthcare facilities whose design has made a difference in the quality of care and financial performance of the institution. Pebble Projects include design strategies such as natural light and air to promote healing.

Mr. Doll also noted that the project was developed to facilitate further expansion of the campus and pointed out that the design will allow further vertical expansion of the Northwest Pavilion, new patient towers and a medical arts building as part of the long term plan. These latter plans are at least five years in the future.

Mr. Doll responded to a question from Mr. Tetelman by pointing out the Emergency Department's current location and the location to which it will be moved, noting that the move will free up approximately 60,000 square feet of space for imaging services, clinic and outpatient procedures.

C. Virtua Health, Inc.

Lou George began by introducing Bob Segin (Chief Financial Officer and Senior Vice President), Gerry Lowe (Vice President of Finance), and Bob Osler (Treasury Director) from Virtua Health. He reported that staff is currently working on structuring a \$685 million financing on behalf of Virtua that will involve the construction of a new hospital to replace their Voorhees facility, renovate portions of their Mount Holly facility, and refinance a portion of their outstanding indebtedness.

Mr. George reported that three insurer's (FSA, FGIC, & Ambac) have expressed an interest in insuring the proposed transaction, however, they are all limited in the

amount of exposure that they can incur and no one insurer can insure all of the debt. Therefore, the final transaction may be insured by more than one insurer or a portion of the transaction may be uninsured. Management is currently reviewing the proposed terms and conditions from the various insurers.

The structure is expected to be some form of variable rate debt to include auction rate or index bonds that will ultimately be swapped to fixed. If a portion of the debt is uninsured, Virtua will consider issuing variable rate index or conventional fixed rate bonds.

At this point Susan Tonry presented the transaction's financial projections. The projection period covers 2008-2013 and shows operating margins ranging from 6.8% to 2.6% (the decrease is a function of conservative rates in latter years, so even though volume is up, revenue will not increase as much as expenses. Profit margins range from 10.8% to 5.9% (with the same explanation as above). Cash on hand figures range from 235 to 294 days, even though the operating margin drops, it is mostly due to increased depreciation expense and does not take away from cash growth. The projections show days in accounts payable at 82 days in 2008 but drop to the low 60's for the last four years of the projections. The big drop occurs in 2010 when the construction payables go away, not from a change in regular vendor payment practices. Days in accounts receivable appear steady at 35 days, and the debt service coverage ratio ranges from 3.6 to 4.2 times coverage.

Ms. Tonry noted that the projections show a strong financial performance. The new hospital is expected to come on line in the 4th quarter of 2010

Ms. Tonry stated that the key assumptions of the projections include the following. In terms of **volume**: inpatient admissions increase 2.5% in 2010 and 6.5% in 2011 reflecting a boost when the project comes on line (they remain relatively flat for the rest of the projection period); average length of stay remains relatively unchanged at 4.47 days; and outpatient visits assume a modest increases occur (1.6% to 2.2%).

In terms of **expenses**: salaries are projected to increase by approximately 4.5% per year, with professional fees increasing by approximately 3.8% throughout the projection period. Supplies and other operating expenses are expected to increase between 5.2% and 7.4% during the projection period, with fringe benefits rising from 28.9% of salaries to 34.6%, reflecting an increase in health insurance costs. The figures for full time employees ("FTEs") per adjusted occupied bed range from 5.7 to 5.4 during the projection period. She noted that FTEs increase only in direct patient care areas so occupied beds grow faster than FTEs.

In terms of **revenues**: changes in Net Patient Service Revenue range between 4.8% and 8.1%. In the early years the increases reflect strong reimbursement rates from existing managed care contracts (6.5%-8%), and in the later years the increase is weighted more on volume. A slight change in payer mix from Medicare to Managed Care is expected, mostly reflected in lower rates of increase to Medicare rates, not from a shift in patient base. Ms. Tonry stated that the revenue assumptions are very conservative.

Ms. Tonry then turned the floor over to Bob Segin to go over some of the details of the project being financed. According to Mr. Segin, Virtua was formed in December of 1998 through an acquisition financing of Memorial Health Alliance and West Jersey Health System. It consists of four acute care hospitals (two in Burlington County, two in

Camden County, with 970 licensed beds, two long-term care facilities, two home health agencies, a health and wellness center, three ambulatory surgery centers, one physician company, a Foundation, and an insurance captive.

Each year, Virtua handles 56,000 admissions, 270,000 outpatient visits, 170,000 emergency department visits. It employs 7,200 employees, with 1,800 medical staff members. Virtua takes in \$850 million in annual revenues.

According to Mr. Segin, from 1999 to 2001, Virtua's attention was internal. After fine-tuning the internal procedures and assets, Virtua created a team of approximately 150 people, taking nine months, to create a picture of where Virtua wants to be in 50 years, focusing on creating a Virtua culture and corporate consolidation. In 2002, Virtua had developed its first Strategic Plan. It was broken down into the following key issues:

- Governance/Management
- Medical Staff
- Market Share
- Programs and services
- Facilities
- Financial Plan

Within Virtua's Facilities Planning, the long-term strategy was to eventually consolidate the three West Jersey Health Systems campuses, which are located within a 10 mile radius to a central location on the Route 73 corridor. The Voorhees Campus is the first phase of that consolidation, however, Virtua experiences no capacity for growth there because it is landlocked, has insufficient infrastructure and struggles with consumer preferences.

The New Greenfield Facility would provide 376 licensed beds, all private rooms which is an 83 bed increase. It was designed from the inside, from the care giver and patient point of view. Virtua staff worked with General Electric and used a design for Six Sigma process. In creating the plan for the new facility, the project team: measured working distances, did photo journalism, created spaghetti diagrams, constructed mock-up rooms, engaged the community, participated in Town Hall meetings, made plan visualizations, gave tours of mock up rooms, considered adjacent ambulatory facilities (not owned by Virtua or financed), and pursued a community destination center. Virtua is also participating in the "Pebble Project" and achieved a Leadership in Energy and Environmental Design status.

Dr. Cohen asked about the costs of construction, to which Mr. Segin replied that it is approximately \$1,000,072 per bed. The new facility itself will be 630,000 square feet. He added that the construction is being managed by Turner Construction and Virtua is using a guaranteed maximum price structure for the contracts.

Mr. Lee asked what will be happening to the current facility, to which Mr. Segin replied that it will be razed and the land, which has been valued at approximately \$18 – 20 million, will be sold.

Mr. Tetelman asked if they were meeting the previously estimated growth rates for 2007, to which Mr. Segin noted that Virtua is exceeding the growth rates. He noted that Virtua excels in expense control and added that other hospitals have visiting to learn about the hospital's partnership with General Electric as a cost saving technique. He also stated that Virtua is in the process of implementing a \$89 million Information technology plan and the new facility will be "paper light."

Mr. Tetelman commended Virtua for its smooth transition in Camden, where Mr. Segin noted that Virtua worked carefully to transform what was an acute care facility into a facility much more suited to the community's needs.

Dr. Cohen asked about zoning approvals, to which Mr Segin noted that they are all on schedule. The Voorhees planning board is scheduled to approve the project on October 11th and Virtua expects to break ground in November or December. Because DEP and DOT approvals are moving forward but will not come through until early 2008, the hospital will be spending its own dollars on the project until all approvals are in, therefore bearing all the risk that an approval falls through, though it is not expected.

These three transactions were presented for informational purposes only; no Authority action was required. Mr. Escher thanked the hospital representatives for presenting their projects and staying on hand for questions.

NEGOTIATED SALE REQUEST & INFORMATIONAL PRESENTATION Warren Hospital

Dennis Hancock reported that Warren Hospital ("Warren") signed a Memorandum of Understanding with the Authority to undertake the sale of at least two series of bonds, one taxable and one tax-exempt, totaling approximately \$48 million. The details of these financings will be more fully discussed by Bill McLaughlin following this request for a negotiated sale.

Warren has asked that the Authority permit the use of a negotiated sale based on the sale of a complex or poor credit, sale of a complex financing structure including those transactions that involve the simultaneous sale of more than one series of bonds with each series structured differently, and volatile market conditions. It is expected that the bonds will be sold without a rating to institutional investors because of Warren's recent financial stress, which will require that Warren spend considerable time speaking directly to investors to outline the significant issues that have affected the hospital over the last two years and its plans for improving operations and its cash position, all of which confirms the contention that Warren is a complex credit.

Further, a portion of the issuance will be completed using a taxable series of bonds because proceeds will be used for purposes that do not meet IRS requirements for tax-exemption, necessitating the sale of multiple series structured differently. Since these are considered under the Authority's policy to be justifications for the use of a negotiated sale, staff recommended the consideration of the resolution approving the use of a negotiated sale and the forwarding of a copy of the justification in support of said resolution to the State Treasurer.

Mr. Hancock noted that, after performing a competitive process, Warren selected Cain Brothers as Senior Managing Underwriter for the bonds. Warren has also received the Attorney General's approval to have the firm of Wilentz, Goldman & Spitzer serve as bond counsel on the financing.

Bill McLaughlin, offering the informational presentation on the proposed Warren Hospital transaction, began by introducing Jeffrey Goodwin (President and Chief Executive Officer) and Carl Alberto (Vice President of Finance and Chief Financial Officer) from the hospital. Mr. McLaughlin explained that Warren Hospital, a not for

profit 214-bed acute care community hospital in Phillipsburg, is the sole New Jersey based healthcare provider in its primary service area.

The Warren Hospital Obligated Group requests that the Authority consider the issuance of a total of \$47,500,000 of bonds on its behalf, with approximately \$37,500,000 as a tax-exempt series and approximately \$10,000,000 as a taxable series. The proceeds of this issuance are expected to be used to refund the Authority's Radian insured Series 1995 bonds; to refund the Authority's Series 2002 Private Placement with Commerce Bank, N.A.; to refinance a term loan, mortgage loan and letter of credit all with Commerce Bank, N.A.; to reimburse the Hospital for capital expenditures; to fund the Debt Service Reserve; and to pay related costs of issuance.

The transaction is expected to be structured as a fixed rate financing and is expected to be sold as an unrated or non-investment grade transaction to institutional investors.

Mr. McLaughlin stated that Warren Hospital's reimbursement from the bond proceeds will, to some extent, improve upon its 1.66 Days Cash on Hand figure (as of June 30, 2007). Although the hospital's Operating Margin for 2006 was positive at 2.46%, both the Debt Service Coverage and the Cushion Ratio were very weak at 0.83 times 0.25 times, respectively. Days in Accounts Payable were very high at 128.66 days versus the statewide median of 68.06 days and full-time employees per adjusted occupied bed were 5.58 versus a statewide median of 5.29.

Unaudited six-month interim financial statements show a weakening financial picture with both Income from Operations and Excess Revenue Over Expenses down from the same period last year. Though Warren Hospital has, based upon its 2006 audit, breached certain covenants in its existing bond documents, it received waivers from the insurer of the 1995 bonds and the holder of the 2002 bonds.

Annual Inpatient Utilization Trends for the hospital are relatively flat, showing slight increase in inpatient days and inpatient admissions. Length of stay has decreased slightly from 4.69 days in 2005 to 4.65 days in 2006. The occupancy rate on licensed beds has risen slightly from 40.23% in 2005 to 41.59% in 2006. Utilization statistics derived from interim financials indicating six-month performance are consistent with year-end 2006 results.

Mr. McLaughlin noted that, during the next month, staff will focus on document preparation, due diligence and disclosure issues. He added that, as a result of recently receiving the Hospital's audited financials from both 2005 and 2006, staff is now in the process of reviewing the footnotes concerning insurance coverage, outstanding indebtedness and corporate structure. A cursory review of the insurance footnote has raised concerns about whether or not the provider of the Hospital's medical malpractice insurance meets Authority requirements.

Mr. Tetelman asked about losses in the purchase of private physicians practices, to which Mr. Alberto discussed the investment strategy in question, noting that one such purchase in Easton, Pennsylvania, has been profitable and effective at expanding Warren's market into Pennsylvania, while some of the other purchased practices were less mature and resulted in losses. These practices are beginning to turn around (\$6 million losses in 2005, \$3 million losses in 2006, and \$2-2.5 million expected losses in 2007) due to more effective billing practices and other upgrades learned with experience in managing such an entity. The practices are effective at bringing business to Warren

Hospital. Mr. Tetelman asked if Warren struggles with splitting doctors, to which Mr. Alberto noted that few primary care physicians split their time, but many of the specialists do split time between Warren and Easton, however, the specialists appear to prefer the Warren facility and refer all their diagnostics to Warren.

Mr. Tetelman asked if there is any growth in the area, to which Mr. Alberto noted there is a positive demographic shift in Warren County and Lehigh Valley; all statistics show inpatient and outpatient demand in the area increasing. Mr. Alberto replied to another question from Mr. Tetelman stating that in 2007, Warren implemented a Liquidity and Operational Margin Improvement Plan which is expected to yield \$9 million in savings, \$4 of which would be realized by the end of 2007. Warren's cost saving measures include a decrease in FTEs and the possible closure of its Obstetrics ("OB") Unit.

Mr. Goodwin stated that the OB department never delivered more than 400 babies a year, approximately one delivery each day, though it has a 16-bed unit. The financial expense of maintaining the department is significant. It was a difficult decision for the hospital, however, there is a Level 2 and a Level 3 unit nearby in Pennsylvania. He added that Warren made an arrangement with Easton Hospital, which is four miles away, in which Easton agreed to take all the uninsured and Medicaid OB patients. He added that Warren's demographic is 60% senior citizen and does not heavily use OB services. Warren Hospital will also continue to maintain a prenatal center in Phillipsburg, in which the doctors from Easton will provide the services, so there is continuation of care. Warren will continue to provide pediatrics. Deliveries would be the only services that would have to be provided at Easton.

Mr. Tetelman asked about transportation, to which Mr. Goodwin noted that both the prenatal and Easton hospital are on bus lines. Ms. Stokley expressed concern that HMO patients would be forced to go to Easton though their health plan may not cover it. Mr. Alberto said there is not a cross-state issue when it comes to payors. Mr. Goodwin added that the uninsured accounts for a very small population in Phillipsburg, noting that eight uninsured babies were delivered at Warren last year. Mr. Tetelman asked, if there was a problem in this respect, would Warren serve as the patient's advocate, to which Warren Hospital's representatives said yes.

Mr. Tetelman asked about the hospital's accounts receivable, to which Mr. Alberto noted that as of August, days in accounts receivable amounted to 50.

Dr. Cohen asked about Warren's existing rates versus the new rates after the refunding, to which Warren replied that its latest rate was 5.6%; it is expected to receive a rate of 6.2%. Dr. Cohen noted that it rises and asked what the benefit was to the borrowing. Mr. Alberto noted that Warren would be improving its liquidity position, improving the cash position by approximately \$15 million. Dr. Cohen then asked if the institutional investors would be the final investors, to which Mr. Alberto agreed that it is envisioned that those would be the final investors.

For the record, Mr. Hopkins reiterated that, after a meeting with Warren Hospital and Authority staff, it was decided that Warren's "Risk Retention Group" could be deemed a captive. It is owned by the hospital and private doctors, approximately split 50/50, and it does not meet the Authority's requirements for a captive. It does not have an AM Best rating, though that requirement is currently suspended pending a policy

revision stemming from the Authority's retreat. He noted that the Risk Group insures non-employed doctors, which was a concern for Members in the past.

Mr. McLaughlin's presentation was for informational purposes only; no Authority action was required.

Mr. Tetelman moved to approve the pursuit of a negotiated sale on behalf of Warren Hospital and to approve the forwarding of a copy of the justification in support of said resolution to the State Treasurer. Mr. Lee seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-48

(attached)

NEGOTIATED SALE REQUEST

Capital Health System

Mark Hopkins reported that Capital Health System, Inc. ("Capital") signed a Memorandum of Understanding with the Authority to undertake a tax-exempt financing in the approximate amount of \$500 million. The proceeds of the financing will be used for construction of a replacement hospital in Hopewell Township for its Trenton-based Mercer Campus and construction of a regional perinatal center at its Trenton-based Fuld Campus. Bond proceeds are also expected to be used to pay costs of issuance, pay capitalized interest and fund a debt service reserve fund.

Capital is a New Jersey not-for-profit corporation which currently operates two acute care hospitals in Trenton. Capital also operates a licensed ambulatory care facility in Hamilton. It is also the sole member of CHS Foundation and the sole shareholder in a for-profit management services company and a captive insurance company.

According to Mr. Hopkins, the Authority issued \$56,280,000 and \$131,560,000 in bonds on behalf of the Capital in 1997 and 2003, respectively. As of June 30, 2007, \$40,885,000 and \$125,810,000, respectively, remain outstanding on those bonds. It is expected that the 1997 and 2003 bonds will remain outstanding. The Authority also issued a series of COMP Program bonds on behalf of Capital in 2001, all of which have been refunded or defeased.

According to the consolidated audited financial statements provided with the Memorandum of Understanding, Capital and its subsidiaries generated excess revenues over expenses of approximately \$29 million for 2006 and \$34 million for 2005. Unaudited information for Capital through August 2007 shows excess revenues over expenses of approximately \$10 million, continuing its recent history of positive results of operations.

Capital asks that the Authority permit the use of a negotiated sale based on: (i) the sale of a complex or poor credit; (ii) the sale of a complex financing structure including those transactions that involve the simultaneous sale of more than one series with each series structured differently; (iii) the large issue size; (iv) volatile market conditions and (v) the expected use of variable rate debt. Since these are considered, under the Executive Order #26, to be justifications for the use of a negotiated sale, staff recommended the consideration of a resolution approving the use of a negotiated sale and

the forwarding of a copy of the justification in support of said resolution to the State Treasurer.

Mr. Hopkins noted that, after performing a competitive process and because of the size and nature of the issue, Capital decided to request Co-Senior Managers. If the Authority Members do not object to the appointment of Co-Senior Managers, Capital has selected Wachovia Securities and UBS Securities, LLC to serve as Co-Senior Managing Underwriters for the bonds. Additionally, Capital has researched several law firms from the Authority's qualified list and received the Attorney General's approval to have the firm of Windels, Marx, Lane & Mittendorf serve as bond counsel.

Mr. Escher moved to approve the pursuit of a negotiated sale on behalf of Capital Health System and to approve the forwarding of a copy of the justification in support of said resolution to the State Treasurer. Ms. Kralik seconded. The vote was unanimous and the motion carried (note: Dr. Cohen was not present for the vote).

AB RESOLUTION NO. HH-49

(attached)

APPROVAL TO UTILIZE MORTGAGE RESERVE FUND

Cathedral Health Services

Susan Tonry reported that, in August 2007, Cathedral Health Services ("Cathedral") made two requests to the U.S. Department of Housing and Urban Development ("HUD") to release money on deposit in the mortgage reserve fund ("MRF"). The MRF is a fund required by HUD when a mortgage is insured by them. It serves to provide additional security for HUD as well as to the Authority, as mortgagee.

The first request was approved by HUD in August, whereby HUD released to Cathedral approximately \$850,000 that the hospital previously deposited, that was considered in excess of the required balance. Cathedral used this money to make its August and September mortgage payments.

The second request is for HUD to release funds from this account to satisfy the next four mortgage payments to be made beginning in October 2007 and continuing through January 2008. On August 31, 2007, HUD approved the release of \$481,245.58 for the hospital to satisfy its October mortgage payment. HUD intends to grant these approvals going forward on a month-to-month basis based on the most current financial information on hand. According to Ms. Tonry, HUD requests that the Authority "not object" to the release of these funds to make the next four mortgage payments.

Staff is requested that the Authority grant to the Executive Director or his designee the authority to "not object" to the release of funds from the MRF to make the mortgage payments for the period of October 2007 through January 2008.

In response to a question from Mr. Escher, Ms. Tonry noted that the Authority recently granted similar approvals for Barnert Hospital. Cliff Rones asked if HUD is okay with the language "does not object," to which Ms. Tonry replied that HUD controls the fund (held at Escrow Agent Bank of New York). Mr. Hopkins confirmed that HUD does not require the Authority's consent for this action.

Mr. Tetelman moved to authorize the Authority's Executive Director or the Deputy Executive Director to deliver and execute documents indicating that, with HUD's

consent, the Authority “does not object” to Cathedral’s request to use funds from the Mortgage Reserve Fund to satisfy monthly bond payments. Ms. Stokley seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-50

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby authorizes the Executive Director or the Deputy Executive Director to deliver and execute documents indicating that, as long as the United States Department of Housing and Urban Development consents, the Authority “does not object” to Cathedral Health Services’ request to use funds from the Mortgage Reserve Fund to make the mortgage payments for the period of October 2007 through January 2008.

APPOINTMENT OF TRUSTEE & AMENDMENT TO TRUST DOCUMENTS

Wiley Mission, Bayshore Community Hospital, and Recovery Management Systems

Wanda Lewis informed the Members that staff received a letter dated August 13, 2007 from Commerce Bank, N.A. giving notice of resignation to the Authority as Trustee, Registrar, Paying Agent and Tender Agent with respect to the Authority’s (i) Variable Rate Revenue Bonds, Wiley Mission Project Issue, Series 2002, (ii) Variable Rate Composite Program-Bayshore Community Hospital Project, Series 2004 A-1 and (iii) Variable Rate Revenue Bonds Recovery Management Systems Inc. Issue, Series 2005. The bank’s management found a potential conflict with Commerce Bank acting in the capacity of Bond Trustee, Paying Agent, Registrar and Tender Agent all at the same time on behalf of the aforementioned bond issues.

The Wiley Mission Project bonds were issued pursuant to the “Wiley Mission Trust Agreement”, dated July 15, 2002. The Bayshore Community Hospital Project bonds were issued pursuant to the “Bayshore Trust Indenture”, dated June 1, 2004. The Recovery Management Systems, Inc. bonds were issued pursuant to the “Recovery Management Trust Indenture”, dated March 1, 2005.

Pursuant to each of the Wiley Mission Trust Agreement, the Bayshore and the Recovery Management Trust Indentures, the Authority is directed to appoint a successor upon the resignation of the trustee.

Staff recommended that the Authority approve the appointment of Wells Fargo Bank, N.A. as the successor trustee for the three noted bond transactions, to take effect upon the expiration of the Governor’s veto period. This recommendation will give Wells Fargo Bank its first appointment since being qualified as Trustee, Registrar, Paying Agent and Tender Agent.

Ms. Lewis noted that staff also requests an amendment to the Wiley Mission Trust Agreement to eliminate the requirement that a successor trustee maintain a corporate trust office in the State of New Jersey. Staff recommends this as a result of the many consolidations that have taken place in this industry.

Ms. Lewis noted that bond counsel Gary Walsh (Windels Marx Lane & Mittendorf, LLP) prepared a form of the Amendment to the Wiley Mission Trust Agreement. Windels Marx will also deliver an Opinion to the Authority that the requested amendment will not adversely affect the tax-exempt status of the bonds, that

the Amendment was duly and lawfully adopted by the Authority, and that the Wiley Mission Trust Agreement including the Amendment is a valid and binding obligation.

Ms. Lewis requested that the Authority Board Members adopt the Amendment and upon receipt of the Bond Counsel Opinion, authorize the Executive Director or his assignee to execute and deliver the Amendment and various other documents that may be required relating to the successor Trustee appointment.

Mr. Tetelman moved to approve the appointment of Wells Fargo Bank as the successor Trustee for the Wiley Mission Trust Agreement, and the Bayshore and Recovery Management Trust indentures. Mr. Lee seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-51

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approve the appointment of Wells Fargo Bank, N.A. as the successor trustee for: (i) Variable Rate Revenue Bonds, Wiley Mission Project Issue, Series 2002, (ii) Variable Rate Composite Program-Bayshore Community Hospital Project, Series 2004 A-1 and (iii) Variable Rate Revenue Bonds Recovery Management Systems Inc. Issue, Series 2005.

Mr. Escher reiterated that Wiley Mission requires a separate board action, specifically an amendment to the Trust Agreement, in order to facilitate this Trustee replacement. Mr. Tetelman then moved to adopt the Amendment to the Wiley Mission Trust Agreement, and moved that upon receipt of the Bond Counsel Opinion, the Members authorize the Executive Director or his assignee to execute and deliver the Amendment and various other documents that may be required relating to the successor Trustee appointment. Ms. Stokley seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-52

(attached)

CONSENT TO RELEASE OF ACCOUNTS RECEIVABLE

Barnert Hospital

Mark Hopkins reminded the Members that Barnert Hospital (“Barnert”) filed for Chapter 11 Bankruptcy on August 17th. The Authority currently has approximately \$30 million in bonds outstanding which are insured by Federal Housing Authority (“FHA”) insurance, which is wrapped by MBIA bond insurance. Last week, Barnert engaged Cain Brothers to sell the hospital. Barnert has requested that the Authority and the US Department of Housing and Urban Development (“HUD”), on behalf of FHA, subordinate their lien on Barnert’s accounts receivable so that Barnert may negotiate a debtor in possession financing using those accounts receivable as collateral.

Barnert expects that it could borrow up to \$8 million using this collateral. The proceeds of any resulting debtor-in-possession loan would be used to help Barnert get to a sale of the hospital. HUD has indicated that it is likely to approve the subordination of Barnert’s accounts receivable because it believes having an operating hospital will

increase the value to potential bidders, thereby realizing more on its security. HUD and the Authority have agreed to ask the bankruptcy court to place strict guidelines on any advance of funds from the DIP loan and will be closely monitoring the ongoing operations at Barnert as well as its sale process. Staff recommends that the Authority approve the subordination of Barnert's accounts receivable conditioned on HUD's official approval of same.

Mr. Tetelman made a motion to grant Barnert Hospital permission to use Accounts Receivables as collateral for a loan to help fund the hospital's operations during bankruptcy; Ms. Stokley seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-53

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves Barnert Hospital's use of Accounts Receivables as collateral for a loan to help fund hospital operations during bankruptcy.

MODIFICATION TO THE QUALIFIED BANKERS LIST

Dennis Hancock referenced a memo that had been distributed to the Members in support of modifications to be made to the Authority's Qualified Bankers List. According to the memo, the Authority recently received requests from a number of investment banking firms to be added to or change their status on the approved banker/advisor list. Staff received the banks' presentations, reviewed them for completeness, requested additional information where necessary, and considered their qualifications for the roles for which they requested status. The following is a summary of the specific status additions that were requested:

<u>Applicant Name</u>	<u>Current Status</u>	<u>Requested Status</u>	<u>Headquarters</u>	<u>N.J. Office</u>
Butler Wick & Co., Inc.	none	Co	Ohio	no
Prager, Sealy & Co., LLC	none	Sen, Co, PA, RA	California	no
Rice Financial Products Company	none	Co	New York	yes
Siebert Brandford Shank & Co., LLC	Co	Sen, Co, PA	New York	yes
Sterne, Agee & Leach, Inc.	Co, PA, FA, RA	Sen, Co, PA, FA, RA	Alabama	yes

Abbreviations: Sen = Senior Manager; Co = Co-manager; FA = Financial Advisor; PA = Placement Agent; and RA = Remarketing Agent.

After considering the information provided by each of the firms, staff recommends that the Authority approve the above-noted status requests. Inclusion on the list is no guarantee that the firm will be engaged by the Authority or any of its borrowers in any of the approved roles.

In addition, the Authority requested all firms that had approved status in any of the five categories (Senior Manager, Co-manager, Placement Agent, Financial Advisor and Remarketing Agent) provide updated information on the firm and individuals that may work with the Authority. Those firms that did not reply to the request were sent a second notice indicating that, if the updated information was not provided by September 17th, staff would recommend that the firm be removed from approved status and the submission of a full Statement of Qualifications would be required before any further

consideration. The following firms did not respond to the request for updated information:

- Killarney Advisors – Financial Advisor
- Southwest Securities – Senior Manager, Co-manager

Mr. Escher asked if it was known why the non-responsive banks chose not to submit an update. Mr. Hancock stated that it is unknown, neither went out of business. Staff confirmed for Mr. Lee that the new firms had received the new RFQ with the updated qualifications requirements. It was noted that going forward, in the Authority's pursuit to open the market to small- and minority-owned firms staff may wish to consider additional outreach to such firms. Michael Ittleton noted that, in addition to in *The Bond Buyer*, the RFQ was advertised on a state website designed to reach out to small- and minority-owned firms. Mr. Hancock added that two of the new firms are minority-owned, but none would likely be qualified small businesses.

Mr. Tetelman moved to approve the proposed modifications to the Authority's Qualified Banker's List, as recommended by staff; Mr. Lee seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-54

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves the removal of Killarney Advisors, Loop Capital Markets, Southwest Securities, Advest and Legg Mason Wood Walker from its Qualified Bankers List, and

BE IT FURTHER RESOLVED, that the Authority approves adding the five banks below to its Qualified Bankers List, in the capacities noted.

<u>Applicant Name</u>	<u>Requested Status</u>
Butler Wick & Co., Inc.	Co
Prager, Sealy & Co., LLC	Sen, Co, PA, RA
Rice Financial Products Company	Co
Siebert Brandford Shank & Co., LLC	Sen, Co, PA
Sterne, Agee & Leach, Inc.	Sen, Co, PA, FA, RA

Abbreviations: Sen = Senior Manager; Co = Co-manager; FA = Financial Advisor; PA = Placement Agent; and RA = Remarketing Agent.

RECOMMENDATION OF "COMP" PROGRAM UNDERWRITER Variable Rate Composite Program

Dennis Hancock referenced a memo that had been distributed to the Members outlining staff's recommendation to appoint PNC Capital Markets as underwriter and remarketing agent for the Authority's Variable Rate Composite Program ("COMP Program") through the year 2009. According to the memo, the Authority's COMP Program was introduced in 1998 and since that time, the program has completed seven issues totaling approximately \$385 million of bonds on behalf of 34 borrowers. The Authority has, in the past, selected an underwriter for a two year period to work with staff on COMP issues.

Last month, staff distributed a Request for Proposal (“RFP”), soliciting a firm to manage COMP issuances over the next two years, to each firm on the Authority’s list qualified to provide both senior managing underwriter and remarketing agent services. Out of the 29 qualified firms, twelve submitted complete and timely proposals.

Based upon staff’s initial review of the proposals, it was clear that many respondents did not fully understand certain questions dealing with experience and fees. Staff provided clarifications and assumptions and asked each firm to resubmit their answers to those questions.

The proposals were reviewed independently by Dennis Hancock and three members of his project management staff. The proposals were scored based upon the firm’s experience with similar structures, proposed fees to underwrite, proposed remarketing fees, and proposed methods to market COMP. Weighted values were assigned to each question given its importance to the management and continued success of COMP.

Staff was prepared to give special consideration to any firm qualified as a Small Business Enterprise with the New Jersey Commerce and Economic Growth Commission, though none of the respondents were so qualified.

The four sets of scores were combined and ranked accordingly. Mr. Hancock noted that, while staff was pleased with the quality of many of the proposals, staff recommends that PNC Capital Markets be appointed to serve as underwriter and remarketing agent for any issuance of bonds under the COMP Program from now through 2009. If approved by the Authority, the next step would be to ask the Attorney General’s office to assign Bond Counsel to the Program for the two year period.

Mr. Escher noted for the record that he no longer works for PNC nor was he involved in this negotiation, therefore, he would be voting on the matter today. Mr. Tetelman moved to appoint PNC Capital Markets as underwriter and remarketing agent for the Authority’s COMP Program, as recommended by staff; Ms. Stokley seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-55

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby appoints PNC Capital Markets to serve as underwriter and remarketing agent for any issuance of bonds under the COMP Program from now through 2009.

AUTHORITY EXPENSES

Mr. Escher referenced a summary of Authority expenses and invoices. Mr. Tetelman offered a motion to approve the bills and to authorize their payment; Mr. Escher seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-56

WHEREAS, the Authority has reviewed memoranda dated September 20, 2007, summarizing all expenses incurred by the Authority in connection with FHA Mortgage Servicing, Trustee/Escrow Agent/Paying Agent fees, and general operating expenses in the amounts of \$661,123.94, \$17,194.03

and \$6,145.22 respectively, and has found such expenses to be appropriate;

NOW, THEREFORE, BE IT RESOLVED, that the Authority hereby approves all expenses as submitted and authorizes the execution of checks representing the payment thereof.

OLD/NEW BUSINESS

Mr. Escher reminded the Members that former Public Member Thomas Jackson was appointed to Chair the newly established Board of UMDNJ's University Hospital. According to Authority policy, no member can serve on a hospital board during his or her tenure with the Authority. This results in Mr. Jackson's resignation from the Authority. In honor of his service, staff drafted a Resolution of Appreciation on his behalf, which Mr. Tetelman then read aloud. Mr. Tetelman offered a motion to adopt the resolution of Appreciation; Ms. Stokely seconded. The vote was unanimous and the motion carried.

AB RESOLUTION NO. HH-57

(attached)

STAFF REPORTS

Mr. Escher thanked staff for their preparation of reports that were distributed for review, including the Project Development Summary, Cash Flow Statement, and a Legislative Advisory. Mr. Hopkins announced the following items in his Executive Director's Report:

1. The *Commission on Rationalizing New Jersey's Health Care Resources* held meetings at the Authority's offices on September 20th and 24th. The Commission's next meeting here will be held on October 25th.
2. In hospital news, Pascack Valley Hospital declared bankruptcy on September 24, 2007 and announced that it will close by the end of the year. The Authority has approximately \$80 million in bonds outstanding on behalf of Pascack. The Authority and Bondholders have been actively monitoring the situation.

Also, Bayonne Medical Center will be submitting a proposed stalking horse bidder to the bankruptcy court tomorrow. A bankruptcy auction will follow with the results in about a month.

Barnert Hospital has retained Cain Brothers to market the hospital to potential purchasers. It is expected that non-binding letters of intent will be received by the end of November.

Overlook Hospital is expected to begin providing 24 hour emergency services at Union Hospital on October 1st. The State Health Planning Board has approved allowing Union Hospital to cease operating as an acute-care facility.

4. In Authority news, Steve Fillebrown is currently in New Hampshire attending the NAHEFA/NCHFA Conference. Mr. Fillebrown's

term on the NCHFA board ends at the end of the year. The two organizations, NAHEFA and NCHFA, are merging.

Also, members of the Finance Committee are reminded that there will be a finance committee meeting to discuss the Authority's 2008 budget on Tuesday, October 9th at 10:00 a.m.

Priscilla Copper, the Authority's database administrator and administrative assistant in the Research Division, celebrated her 20th anniversary at the Authority this month.

Members should have received in the mail the Authority's 2006 annual report. A copy of it is available on the table. It is a handsome and informative report and I would like to compliment Stephanie Bilovsky on doing a fine job in preparing it.

Mr. Escher noted that he cannot remember another time when there were four hospital bankruptcies in New Jersey. Members and staff agreed this is unique.

EXECUTIVE SESSION

At this point Dr. Cohen requested that the Members discuss Authority compliance with the Open Public Meeting Act ("OPRA") regarding an email he had distributed to the Members and Deputy Attorney General, Cliff Rones. Mr. Rones advised that the Members meet in executive session for this discussion since he would be providing legal advice. Dr. Cohen suggested that not all legal advice may require an executive session. Upon the advice of Mr. Rones, however, a majority of the Members stated that they would like to meet in executive session to receive legal advice regarding the change to the September minutes and regarding the maintaining and distribution of executive session minutes.

Mr. Hopkins stated that he would also like the Members to enter executive session to discuss the litigation of Bayonne Medical Center's bankruptcy, to receive legal advice on a possible loan to Bayonne Medical Center and to discuss contractual negotiations regarding Warren Hospital's Risk Retention Group.

Ms. Tetelman offered a motion to enter the session; Mr. Lee seconded it. Mr. Escher voted yes; Dr. Cohen abstained; Mr. Lee voted yes; Ms. Kralik abstained; and Ms. Stokley voted yes. The motion carried.

AB RESOLUTION NO. HH-58

NOW, THEREFORE, BE IT RESOLVED, that, as permitted by the Open Public Meetings Act and the Authority's By-Laws, the Authority meet in Executive Session to discuss the bankruptcy proceedings and contractual negotiations regarding Bayonne Medical Center and contractual negotiations regarding Warren Hospital's Risk Retention Group, and to receive legal advice.

BE IT FURTHER RESOLVED, that the results of discussions may be made known at such time as the need for confidentiality no longer exists.

Public session reconvened. Mr. Hopkins noted that the Authority's Directors & Officers liability insurance covers all Members and staff with a maximum of \$20 million in coverage. He noted that staff is looking into whether or not Authority Members receive any protection under State law.

As there was no further business to be addressed, Mr. Tetelman moved to adjourn the meeting, Ms. Stokley seconded. The vote was unanimous, and the motion carried at 1:30 p.m.

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE COPY
OF MINUTES OF THE NEW
JERSEY HEALTH CARE
FACILITIES FINANCING
AUTHORITY MEETING HELD
ON SEPTEMBER 27, 2007.

Dennis Hancock
Assistant Secretary

AB RESOLUTION NO. HH-48

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY
NEGOTIATED TRANSACTION PURSUANT TO
EXECUTIVE ORDER NO. 26**

Warren Hospital

WHEREAS, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

WHEREAS, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

WHEREAS, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

WHEREAS, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

WHEREAS, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

WHEREAS, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

WHEREAS, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

WHEREAS, Warren Hospital has entered into a Memorandum of Understanding with the Authority to pursue a revenue bond financing (the “Financing”); and,

WHEREAS, Warren Hospital has requested that the Authority consider approving the pursuit of a negotiated sale; and,

WHEREAS, the Financing could be considered a complex or poor credit; and,

WHEREAS, market conditions could be considered volatile; and,

WHEREAS, the Financing structure may be complex, involving the simultaneous sale of more than one series with each series structured differently; and,

WHEREAS, the Authority is desirous of being responsive to Warren Hospital's request; and,

WHEREAS, the aforementioned resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

NOW, THEREFORE, BE IT RESOLVED, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of this Financing to conduct a negotiated sale; and,

BE IT FURTHER RESOLVED, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.

AB RESOLUTION NO. HH-49

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY
NEGOTIATED TRANSACTION PURSUANT TO
EXECUTIVE ORDER NO. 26**

Capital Health System, Inc.

WHEREAS, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

WHEREAS, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

WHEREAS, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

WHEREAS, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

WHEREAS, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

WHEREAS, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

WHEREAS, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

WHEREAS, Capital Health System, Inc. has entered into a Memorandum of Understanding with the Authority to pursue a revenue bond financing (the “Financing”); and,

WHEREAS, Capital Health System, Inc. has requested that the Authority consider approving the pursuit of a negotiated sale; and,

WHEREAS, the Financing could be considered a complex or poor credit; and,

WHEREAS, market conditions could be considered volatile; and,

WHEREAS, the Financing structure may be complex, involving the simultaneous sale of more than one series with each series structured differently; and,

WHEREAS, the Financing could be considered large; and,

WHEREAS, Capital Health System, Inc. is considering the issuance of variable rate bonds for all or a portion of the Financing; and,

WHEREAS, the Authority is desirous of being responsive to Capital Health System, Inc.'s request; and,

WHEREAS, the aforementioned resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

NOW, THEREFORE, BE IT RESOLVED, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of this Financing to conduct a negotiated sale; and,

BE IT FURTHER RESOLVED, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.

AB RESOLUTION NO. HH-52

**THE NEW JERSEY HEALTH CARE FACILITIES AUTHORITY
REGARDING THE APPOINTMENT OF A SUCCESSOR TRUSTEE
IN CONNECTION WITH PREVIOUSLY ISSUED BONDS**

WHEREAS, the New Jersey Facilities Financing Authority (the “**Authority**”) has received letters dated August 13, 2007 from Commerce Bank, N.A. (“**Commerce**”) giving notice of resignation to the Authority as trustee, registrar, paying agent and tender agent with respect to the Authority’s (i) Variable Rate Revenue Bonds, Wiley Mission Project Issue, Series 2002 (the “**Wiley Bonds**”), (ii) Variable Rate Composite Program-Bayshore Community Hospital Project, Series 2004 A-1 (the “**Bayshore Bonds**”) and (iii) Variable Rate Revenue Bonds Recovery Management Systems Inc. Issue, Series 2005 (the “**Recovery Management Bonds**”); and

WHEREAS, the Wiley Bonds were issued under and pursuant to a Trust Agreement, dated as of July 15, 2002 by and between the Authority and Commerce (the “**Wiley Trust Agreement**”); and

WHEREAS, the Bayshore Bonds were issued under and pursuant to a Trust Indenture, dated as of June 1, 2004 by and between the Authority and Commerce (the “**Bayshore Trust Indenture**”); and

WHEREAS, the Recovery Management Bonds were issued under and pursuant to a Trust Indenture, dated as March 1, 2005 by and between the Authority and Commerce (the “**Recovery Management Trust Indenture**”); and

WHEREAS, under each of the Wiley Trust Agreement, the Bayshore Trust Indenture and the Recovery Management Trust Indenture, the Authority, upon the resignation of the trustee thereunder, shall appoint a successor trustee; and

WHEREAS, the Authority desires to appoint a successor trustee under each of the Wiley Trust Agreement, the Bayshore Trust Indenture and the Recovery Management Trust Indenture; and

WHEREAS, the Authority also desires to amend the Wiley Trust Agreement (the “**Amendment to the Wiley Trust Agreement**”) to change the criteria required for a successor trustee thereunder to eliminate the requirement for a successor trustee to maintain a corporate trust office in the State of New Jersey;

NOW, THEREFORE, BE IT RESOLVED by the Authority as follows:

Section 1. Authorization and Approval of Amendment to the Wiley Trust Agreement. The Authority hereby declares the Amendment to the Wiley Trust Agreement to be an authorized undertaking of the Authority and authorizes and directs its

officers to execute and deliver all documents necessary to enable the Authority, as permitted by the Act. The Amendment to the Wiley Trust Agreement in the form attached hereto as **Exhibit A** is hereby approved and each the Chairman, Vice Chairman, Secretary, Treasurer, Assistant Secretary, Assistant Treasurer, Executive Director or Deputy Executive Director of the Authority (each an “**Authorized Officer**”) are hereby authorized to execute and deliver on behalf of the Authority such Amendment to the Wiley Trust Agreement.

Section 2. Appointment of Trustee. Wells Fargo Bank, N.A, is hereby appointed as trustee, registrar, paying agent and tender agent under each of the Wiley Trust Agreement, Bayshore Trust Indenture and Recovery Management Trust Indenture as of the effective date of the resignation of Commerce.

Section 3. Incidental Action. The Authorized Officers of the Authority are hereby authorized and directed to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the execution and delivery of the Amendment to the Wiley Trust Agreement, all in accordance with the foregoing sections hereof.

Section 4. Effective Date. This Resolution shall take effect ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery (and not including the day of delivery) to the Governor of the minutes of the meeting of the Authority at which this Resolution is adopted or such earlier time as the Governor signs a statement of approval, all in accordance with the subsection (i) of Section 4 of the Act.

Exhibit A

**NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY
AND
COMMERCE BANK, NATIONAL ASSOCIATION**

**AMENDMENT
TO
TRUST AGREEMENT**

This Amendment Agreement (the “**Amendment Agreement**”) is dated as of September 18, 2007 and made by and among, COMMERCE BANK, NATIONAL ASSOCIATION (the “**Trustee**”) and the NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY (the “**Authority**”).

The Authority has received letters dated August 13, 2007 from the Trustee giving notice of resignation to the Authority as trustee, registrar, paying agent and tender agent with respect to the Authority’s Variable Rate Revenue Bonds, Wiley Mission Project Issue, Series 2002, pursuant to the original Trust Agreement dated as of July 15, 2007 in connection with issuance of the Authority’s Variable Rate Revenue Bonds, Wiley Mission Project Issue, Series 2002 (the “**Trust Agreement**”);

WHEREAS, under the Trust Agreement, the Authority, upon the resignation of the trustee thereunder, shall appoint a successor trustee; and

WHEREAS, pursuant to the Resolution of the Authority adopted September 27, 2007, the Authority has authorized and approved this Amendment Agreement to change the criteria required for a successor trustee under the Trust Agreement to eliminate the requirement for a successor trustee to maintain a corporate trust office in the State of New Jersey.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, it is hereby agreed as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Trust Agreement.

2. Amendment. The Authority and the Trustee hereby agree to amend the Trust Agreement as follows.

Section 9.1(f) of the Trust Agreement is hereby amended to read as follows:

“(f) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company or bank having the powers of a trust company, having a combined capital and surplus of at least One Hundred Million Dollars (\$100,000,000), subject to supervision or examination by federal or state authorities and shall be rated at least Baa3/P-3 by Moody’s if the Bonds are then rated by Moody’s or has received written evidence from Moody’s that the use of such Trustee would not result in a reduction or withdrawal of the rating on the Bonds. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.”

3. Representations. Each party represents to the other parties that all representations contained in the Trust Agreement, are true and accurate as of the date of this Amendment Agreement and that such representations are deemed to be given or repeated by each party, as the case may be, on the date of this Amendment Agreement.

4. Trust Agreement Ratified and Confirmed. Except as expressly amended by this Amendment Agreement, the Trust Agreement is in all respects ratified and confirmed and the terms, provisions and conditions thereof are and shall remain in full force and effect. From and after the date hereof, all references to the Trust Agreement shall mean the Trust Agreement as amended by the terms hereof.

5. Governing Law. This Amendment Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without giving effect to the conflict of law principles thereof.

6. Counterparts. This Amendment Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Amendment Agreement as of the date first written above.

NEW JERSEY HEALTH CARE
FACILITIES FINANCING AUTHORITY

By: _____
Name:
Title:

COMMERCE BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Name:
Title:

AB RESOLUTION NO. HH-57

RESOLUTION OF APPRECIATION

Thomas M. Jackson, Esq.

WHEREAS, on September 25, 2006, Thomas M. Jackson, Esq. was confirmed by the State Senate, after being appointed by Governor Jon S. Corzine, to serve as a Public Member of the New Jersey Health Care Facilities Financing Authority; and,

WHEREAS, as Public Member, Thomas M. Jackson provided guidance on matters affecting general and specific operations of the Authority; and,

WHEREAS, Thomas M. Jackson offered his time and expertise on a variety of subjects which were of special interest and benefit to the Authority, taking special interest in reworking and updating the Authority's internal policies; and,

WHEREAS, Thomas M. Jackson demonstrated initiative and leadership in carrying out the mission of the Authority, that of ensuring "that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State"; and,

WHEREAS, the Authority wishes to acknowledge Thomas M. Jackson's commitment to the Authority and to applaud the integrity with which he carried out the Authority's mission and goals;

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Health Care Facilities Financing Authority hereby expresses its sincere appreciation to Thomas M. Jackson; and,

BE IT FURTHER RESOLVED, that a copy of this Resolution of Appreciation be sent to Thomas M. Jackson as a tribute from the Authority for his service and accomplishments as a member of the Authority.

-----Original Message-----

From: Moshe Cohen [<mailto:mocohn@gmail.com>]

Sent: Tuesday, September 18, 2007 9:20 PM

To: MHopkins

Subject: RE: September 27th Meeting

Mark

Attached is Judge Waugh's opinion regarding executive session and compliance with N.J.S.A. 10:4-13(a). Please include the opinion for consideration by board members and senior staff.

Please forward the questions below to Cliff and board members.

1. Enclosed is a copy of Middlesex County Superior Court Judge Alexander Waugh's unpublished decision in Paff v. Monroe Board of Education. In that decision, Judge Waugh holds that a public body "must make a good faith effort to provide the public with as much knowledge as possible without endangering the 'public interest' or the rights of others." Do you believe that Judge Waugh's decision sets the proper standard for compliance with N.J.S.A. 10:4-13(a)? If not, please set forth the proper standard as you see it.

2. Do the N.J.S.A. 10:4-13(a) resolutions comply with what you have determined to be the proper standard? If not, please provide some guidelines on how the Authority should draft its future N.J.S.A. 10:4-13(a) resolutions.

3. Do you believe that the Authority's present form of closed session resolutions satisfy N.J.S.A. 10:4-13(b) in that they state "as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public"? If not, please provide some guidelines on how the Authority should draft its future N.J.S.A. 10:4-13(b) resolutions.

4. Consider the following statement: "The purpose of the Authority's executive session minutes is not only to inform the public of what the Authority privately discussed and decided, but to create a record, for the Authority's own use, to refresh members' recollection of what was said and done at previous meetings. Accordingly, the minutes should be verbose and detailed enough to accomplish the latter purpose, even if some of the material recorded in the minutes may remain forever exempt from public disclosure." Does the Senator Byron M. Baer Open Public Meetings Act compel the Authority to comply with the procedure set forth in the above statement? If not, does the Act prevent the Authority from adopting the procedure set forth in the above statement? Would you consider it "best practices" (i.e. most compatible with the Legislature's declarations contained within N.J.S.A. 10:4-7) for the Authority to adopt the procedure set forth in the above statement?

5. Consider the following statement: "The Authority ought to regularly and periodically examine its past executive session minutes to determine whether or not the passage of time or the occurrence of events allow for disclosure of some material that had previously redacted from those minutes." Does the Senator Byron M. Baer Open Public Meetings Act compel the Authority to conduct such regular and periodic reviews? If not, does the Act prevent the Authority from conducting such regular and periodic reviews? Would you consider it "best practices" (i.e. most compatible with the Legislature's declarations contained within N.J.S.A. 10:4-7) for the Authority to establish

a time during which such reviews would remain standing items on the Authority's meeting agendas?

6. Consider the following statement: "The Authority's executive session minutes, properly and necessarily redacted, should be on hand and publicly available in the same manner as its public meeting minutes. A member of the public who requests the Authority's executive session minutes should be able to receive them routinely and promptly, without requiring the Executive Director or an attorney to review those minutes before releasing them." Does the Senator Byron M. Baer Open Public Meetings Act compel the Authority to maintain its executive session minutes in this fashion? If not, does the Act prevent the Authority from maintaining its executive session minutes in this fashion? Would you consider it "best practices" (i.e. most compatible with the Legislature's declarations contained within N.J.S.A. 10:4-7) for the Authority to routinely maintain its minutes as suggested in the statement?

7. Consider the following statement: "As a general rule, the Authority's executive session minutes, properly and necessarily redacted, should be publicly available in draft form prior to the Authority's next regularly scheduled public meeting. This would allow interested members of the public an opportunity to review those minutes prior to meeting and thus draw informed conclusions and offer informed comments regarding the matters privately discussed. Does the Senator Byron M. Baer Open Public Meetings Act compel the Authority to publicly disclose the nonexempt portions of its executive session minutes, in draft form, prior to its next scheduled meeting? If not, does the Act prevent the Authority from disclosing its minutes in this fashion? Would you consider it "best practices" (i.e. most compatible with the Legislature's declarations contained within N.J.S.A. 10:4-7) for the Authority to routinely disclose the nonexempt portion of its executive meeting minutes prior to its next regular meeting?

Moshe